

Meeting of 2009-9-21 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING  
SEPTEMBER 21, 2009 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   Frank Jensen, City Attorney  
   Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Dr. William Sprague, Northwest Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
James Hanna, Ward Two  
Janice Drewry, Ward Three  
Jay Burk, Ward Four  
Robert Shanklin, Ward Five  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
   Doug Wells, Ward Eight

ABSENT:                      None

AUDIENCE PARTICIPATION:

Jervis Jackson, Director of the Southwest Continuum of Care, announced that they have received a federal grant of \$1.3 million from stimulus funds. This will help those on the brink of homelessness and moving them to a place of self sufficiency and in best case scenario, a place of home ownership.

June Harris, 304 NW 35<sup>th</sup> Street, stated she would like to address the sidewalk issues on 35<sup>th</sup> Street. She stated 35<sup>th</sup> Street is not meant to be a thoroughfare, it is a residential area and they would like to keep it that way. With the widening of 38<sup>th</sup> Street, most people will travel down 35<sup>th</sup> Street. She stated sidewalks in town have buckled and have cracks.

Robert Hayek, 4744 Meers-Porter Hill Road, stated 75% of the residents on both sides are against the placement of sidewalks. It makes no sense why the will of the people is being ignored. He stated the people traveling on the sidewalk would have to cross four intersections while there are no intersections on the east side. He stated he has called five major realtors in town and four out of the five realtors stated that no one ever asks for sidewalks.

Joe Bailey, 2723 NE Euclid, stated he represents residents that are concerned and upset about heavy weight trucks and construction equipment traffic on their street. He stated the developers have deliberately avoided building a truck access road from Flower Mound Road thus forcing the truck traffic to use their street to access the development. He requested that the Council direct officials to require the developers to follow the rules and request police support to enforce the signs which prohibit trucks on their street. He stated the developer told the Council that Euclid would never be used for heavy construction traffic and they said that they would build a road from Flower Mound into the development.

Mayor Purcell stated that they cannot take any action tonight, but recommended they discuss this issue during report section of the meeting.

Wayne Wilson, 4905 SE Randolph, stated he lives in the Sungate Addition and has a fifth wheel that sits on the easement south of his home. He stated he is eight feet past the front of his property and he would have to move two air conditioning units to be even with his property line. He is requesting an eight foot variance. He is able to

move the fifth wheel if there is every any work that has to be done in the easement.

Daniel Ghrayyeb, 333 NE Skyline Circle, stated he has a third driveway built on the side of his home where he stores a twenty one foot motor home. He is restoring the 1976 motor home. He would like to keep in on the driveway. The driveway is not in the easement.

Burk stated he feels they need to look at this issue. Many people have spent a lot of money adding areas to park their RV s and he feels they need to look at grandfathering in those that are already in place. City staff has just started aggressively enforcing this issue. He suggested the City Council establish a committee to look at this part of the code.

Hanna stated he has the same problem in his ward. He has talked with Tony Griffith, Neighborhood Services Supervisor, who is in the process of looking at this section of the code.

Mayor Purcell stated the City Council passed an ordinance in 2006 where they specifically addressed camping trailers and recreational vehicles. The ordinance that says you cannot park anywhere goes all the way back to 1972. He stated there is something in Chapter 14 as well as Chapter 15 of the code. One place says you can park, the other says you cannot. He stated they need to put a group together to look at this issue. The City Manager has agreed to not enforce this issue until they can resolve the problem.

Councilmembers Wells, Burk and Drewry agreed to serve on a committee to look at bringing an ordinance back to the City Council.

Jensen stated an attorney would be assigned to the committee. He stated they will not be enforcing by prosecution any of the current summons.

Mayor Purcell questioned how those with letters of violation will be notified.

Griffith stated that staff will contact those people and tell them to disregard the letter.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF SEPTEMBER 8, 2009.

MOVED by Hanna, SECOND by Drewry, to approve the minutes of September 8, 2009. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Purcell stated item #8 is stricken from the agenda and item #6 needs to be considered separately. Shanklin requested item #18, Wells requested #7 and Drewry requested item #2 be considered separately.

MOVED by Drewry, SECOND by Burk, to approve the Consent Agenda with the exception of items #2, #6, #7, #8 and #18. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: Novella and Roosevelt Stewart in the amount of \$910.52 **(Res. 09-94)**. Exhibits: Legal Opinion/Recommendation and Resolution No. 09-\_\_.

2. Consider the following damage claim recommended for denial: LaWanda Eddy in the amount of \$4,044.71. Exhibits: Legal Opinion/Recommendation.

Drewry stated that Ms. Eddy is in attendance and would like to address her claim.

LaWanda Eddy, #15 Village Green Drive, stated police officers were called out to her home because she was playing her music too loud. She stated she called the officers back to her home to apologize and she was then taken to the hospital. She claimed that she was no threat to herself or others and that the officers realized that a mistake had been made once she was in the hospital. She stated the amount of her claim is the bill for the emergency room charges. She stated she is not asking for pain or suffering. She stated the officers made a mistake and assumptions were just made.

Drewry stated that in the material it stated that Ms. Eddy swallowed a razor in 2002 and took poison in 2003. She questioned if Ms. Eddy gave the officers that information when they were there.

Ms. Eddy stated she did give the officers that information after they established a repore. She stated she has

seasonal depression that occurs around October. She has completely recovered.

Mayor Purcell questioned how the officers knew of her history.

Ms. Eddy stated they did not ask her for any information.

MOVED by Shanklin, SECOND by Burk, to deny the damage claim of LaWanda Eddy in the amount of \$4,044.71. AYE: Burk, Shanklin, Zarle, Shoemate, Hanna, Drewry. NAY: None. ABSTAIN: Haywood, Wells. MOTION CARRIED.

3. Consider adopting a resolution approving the settlement by a joint petition and making payment in the pending workers' compensation claim of Albert Nease. Exhibits: **Resolution No. 2009-95**.

4. Consider approval of the Cooperative Agreement for Joint Use of Police/Law Enforcement Training Facilities between the City of Lawton and Great Plains Technology Center and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Cooperative Agreement for Joint Use of Police/Law Enforcement Training Facilities.

5. Consider approving a professional services agreement with Dean Actuaries, L.L.C., to provide consultation services regarding the City's General Employee Retirement System to the City of Lawton in connection with the City's collective bargaining with AFSCME Local 3894, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement is on file in the City Clerk's Office.

6. Consider approving a request by Kelley Haesy-Bass, representing the Mountain Metro AMBUCS of Lawton, Oklahoma, to waive any permit fees required to construct a baseball Miracle Field in Elmer Thomas Park, specifically designed to accommodate special needs children and young adults. Exhibits: None.

Kelley Bass, 2606 NW Lakefront Drive, stated they are excited that Landmark Engineering finished the plans and that they are in the hands of the City waiting for the permits to be completed and approved.

Mayor Purcell thanked Mrs. Bass for all of her hard work.

Shanklin questioned the amount of the permits.

Mitchell stated the permit fees should be in the range of \$100 - \$200.

Shanklin stated he feels that they are setting a precedence if they waive these fees. They are not talking about that much money. Are they going to approve a request from everyone else?

MOVED by Drewry, SECOND by Wells, to waive any permit fees required to construct a baseball Miracle Field in Elmer Thomas Park. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk. NAY: Shanklin. MOTION CARRIED.

7. Consider accepting an agreement between the City of Lawton, Oklahoma, and the Board of County Commissioners of the County of Comanche, Oklahoma Pictometry International, Corp., for the purpose of obtaining orthogonal and oblique digital images of the Earth's surface in Comanche County, captured from airborne platforms using Pictometry's patented and proprietary hardware and software capture systems and authorize the Mayor and City Clerk to execute all documentation as necessary. Exhibits: Proposed Agreement between the City of Lawton and Comanche County; Exhibit 1 of Proposed Agreement; Annual Cost breakdown.

Wells stated there are current problems in the E-911 center with mapping and he feels this money would be better used to hire a GIS person versus spending money on a software product. He looked at their website and five or ten years from now this might be of some value to the police and fire departments in that they could go in and look at a piece of property and decide how best to secure it in case of a police or fire action. He also went out and did a free trial look at Google Earth Pro and basically it has the same imaging that this particular program has for \$350,000.

It seems to him that we need to be doing something to get our GIS up to date so we can use the mapping for our 911 center that give directions and locations for emergency calls rather than spend it on a software product that just shows a picture of the piece of property.

MOVED by Wells, SECOND by Zarle, to disapprove the agreement.

Mitchell stated staff has been negotiating this agreement for about two years and they have had several demonstrations of the product. He stated Comanche County and the County Assessor see this as a vital tool in helping them keep their assessments up to date. They encumbered \$100,000 in FY 2008-2009, so the first year cost for this product is covered. They feel this can be integrated with our GIS to provide additional information. It has fire, police and code enforcement applications. When we move to a more regional operation, it will have additional benefits.

Barbara Burk, Comanche County Treasurer, stated this will be a good tool for the County Assessor as well as E-911

and Emergency Management.

Wells stated this is about taking pictures and updating some years later. The information you originally see may not be the same information two or three years later.

Mayor Purcell suggested they hear from those who are involved.

Wells stated you can get Google Earth for \$400 and it shows the same information. He stated this will be old information but they only update this every two or three years. It is not going to help our E-911 center in dispatching an emergency responder to an address

Mitchell stated county and city staff feel this is a tool that they can use.

SUBSTITUTE MOTION by Drewry, SECOND by Shanklin, to table to October 13<sup>th</sup> meeting. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Shoemate, Hanna. NAY: Wells. MOTION CARRIED.

8. Consider approval of an Agreement in Principal with the Lawton Fort Sill Chamber of Commerce for a Contract for Services with Bill Phelps & Associates, LLC, beginning July 1, 2010 through June 30, 2011, for the purpose of providing professional consulting/lobbyist services to the City and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Consultant Agreement.

**THIS ITEM WAS STRICKEN.**

9. Consider authorizing the Mayor to execute the recertification application for the Community Rating System of the National Flood Insurance Program. Exhibits: Recertification Application on file in the City Clerk's office.

10. Consider approving the sale of nonessential city property to the Board of Education of Independent School District No. 8, Comanche County, Oklahoma, also known as Lawton Public Schools (Police Department) as provided by city code 10-4-406.A. Exhibits: None.

11. Consider accepting the Water Infrastructure Improvement Phase I (Lines) Project #2006-8 as constructed by Triangle Excavating Co. and placing the Maintenance Bond into effect. Exhibits: None.

12. Consider acknowledging receipt of a permit for the construction of a waterline and appurtenances from the Oklahoma Department of Environmental Quality to serve NW Westaire Circle, City of Lawton, Comanche County, Oklahoma in conjunction with NW 67<sup>th</sup> Street Reconstruction (Cache Road to Rogers Lane) ODOT Project STP-116B(138)MS, J/P 23411(04), City of Lawton Project #2003-7. Exhibits: Permit to Construct dated September 3, 2009.

13. Consider approving the lease agreement between the City of Lawton and the Crossroads Youth and Family Services Center, Inc., dba, Crossroads Head Start/ Early Head Start. Exhibits: Lease Agreement is on file in the City Clerk's office.

14. Consider approving an agreement between the Center for Creative Living Corporation and the City of Lawton for services to senior citizens. Exhibits: Center for Creative Living Agreement on file in the City Clerk's office.

15. Consider renewing the agreement between the Board of County Commissioners of Comanche County and the City of Lawton for library service to Comanche County residents living outside the City of Lawton. Exhibits: Agreement on file in City Clerk's office.

16. Consider extending the contract (CL09-009) Degreaser with Mid-American Research Chemical Corp. of Windthorst, TX. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

17. Consider awarding (RFPCL10-009) Lease of Office Facilities for Housing & Community Development to K.W. & Company Inc., of Lawton, OK. Exhibits: Department recommendation, Proposal Price Sheets.

18. Consider extending the contract (RFPCL08-004) Property Insurance with Towe, Hester & Erwin LLC of Lawton, OK. Exhibits: Department Recommendation, Contract Extension Form.

Shanklin questioned how many years Towe, Hester & Erwin has had this contract.

Jim Russell, Safety and Risk Officer, stated they rebid this contract two years ago and this will be their second extension.

Shanklin stated it has been ten or twelve years.

Russell stated Towe, Hester and Erwin did have the contract prior to the rebid in 2007.

He stated this extension is for the same price as in 2007.

Shanklin stated he knows exactly what is going on and he does not like it.

MOVED by Burk, SECOND by Drewry, to extend the contract (RFPCL08-004) Property Insurance with Towe, Hester & Erwin LLC of Lawton, OK AYE: Burk, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: Shanklin. MOTION CARRIED.

19. Consider approval of payroll for the period of September 7 - 20, 2009.

OLD BUSINESS ITEMS:

20. Hold public hearing and adopt a resolution declaring the accessory structure located at 2407 SW Jefferson Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove the dilapidated structure, if necessary. Exhibits: Exhibits: Resolution No 09-\_\_\_\_. Summary documents with supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

Anthony Griffith, Neighborhood Services Supervisor, presented photographs of the property. He stated the property was brought before the City Council on August 25, 2009 and was tabled for thirty days. The condition of the property has not changed.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Zarle, to adopt **Res. 09-96** declaring the structure at 2407 SW Jefferson Avenue as a dilapidated public nuisance. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

21. Consider waiving City of Lawton liens assessed upon specific properties, currently owned by Comanche County, at the request of the County Treasurer, and take appropriate action as deemed necessary. Exhibits: Total Calculation of Liens/City & County owned

Mitchell stated this list of properties have gone through a Sheriff's sale and a resale and are still owned by Comanche County. He stated the City only recovers about 65% of the liens filed with the County. We lose these because the property is never sold or the liens expire. It looks as though these properties will not sell with these liens attached and at some point in time the liens will expire. The properties are not on the tax roles, the county has to maintain the properties and the likelihood of the City getting reimbursed is fairly small.

Barbara Burk, Comanche County Treasurer, stated when these properties go to resale and there are huge liens, no one wants to buy them. If the property does not sell at a resale, it goes into the County's name. When it goes into the County's name that resale deed extinguishes any mortgage, lien and any taxes. As long as it stays in the County's name, no one is getting any money from it. The County does not have the manpower to maintain these properties. She is requesting that when the resale deed is filed, the City waive those liens so they can rid of the property and back on the tax roles.

Wells questioned if the County could turn the property over to the City when it goes to the commissioner's sale.

Burk stated yes they deeded property to the City.

Wells stated then the City could at least try to sell the property and get something back for our costs.

Burk stated you can also foreclose on these properties with big liens. Then they would not be pressed to put them on the County sale.

Wells stated in the past there were some cases where we sold some of the properties that were given to us by the County and made a profit.

Jensen stated he would like the City Council to hear from Scott Meadors, Assistant City Attorney, who researches all of these properties.

Mitchell stated recently staff surveyed all of the properties that were being offered during the Sheriff's sale and identified those that the City had some interest in. The County did transfer five or six lots that we think we can use for our housing programs. The list tonight are properties that the City does not have any interest in.

Wells stated that if there are no liens against them we could sell them ourselves.

Scott Meadors, Assistant City Attorney, stated he and the City Treasurer have had a similar discussion about the effect that these liens have at a tax resale. He stated all of the liens that the City is being asked to waive have already been extinguished as a matter of law. Six of these properties did go to Commissioners sale and have already sold to other individuals. He stated there are some larger issues about the entire process, but with the exception of the second property listed which is 1216 NW Williams, all of our liens have been previously extinguished as a matter of law. He stated we do have the option to foreclose, but often times we are in a race with the tax resale process because many times the properties we tear down have been abandoned and the taxes haven't been paid for several years. Most of the time if the house has been torn down, the lot has minimal value and it becomes a resource management issue for the City Attorney's office. It has been the position of the City Attorney that we will not pursue these unless it is an exceptional property. He stated those properties that have mowing and clearing liens, when they go to a tax resale, someone will be willing to pay those. He stated the property at 1216 NW Williams is not scheduled to go to resale until 2011. It is his recommendation that no action is required and leave the lien in place for the property at 1216 NW Williams. He stated it may be alarming to those that purchased those other properties because there is still a City of Lawton lien on file in the County Clerk's office, but the lien has been extinguished as a matter of law.

Haywood questioned how long a lien stays on the books at the County Clerk's office.

Ms. Burk stated it is released on the book in the County Treasurers office, but it is still on file in the County Clerk's office. If a client has a title search done, they are going to pick up those liens because there is no release filed.

Jensen stated a title attorney is going to know that the liens have been relinquished.

Meadors stated that we could prepare a lien release and the client could pay to have it filed. That is a cost the City will not cover.

Ms. Burk stated in the past the individuals have paid for it.

Meadors stated in some cases.

Hanna stated he would like to release the liens on 1216 NW Williams. He stated it will sit there for three or more years and the City will have to maintain the property.

MOVED by Hanna, SECOND by Shoemate, to release the liens on the property at 1216 N Williams. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

#### NEW BUSINESS ITEMS:

22. Hold public hearing and adopt a resolution declaring the structure located at 1 NW 59<sup>th</sup> Street to be dilapidated, detrimental to the health, safety or welfare of the general public and community, a blighting influence and a public nuisance. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove the dilapidated structure, if necessary. Exhibits: Resolution No 09-\_\_\_\_. Summary documents with supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

Griffith presented photographs of the property. There have been no utilities since 2006. He stated staff has secured the property five times in the last four years.

#### PUBLIC HEARING OPENED.

Nanette Hagen, 4 NW 59<sup>th</sup> Street, stated the house has been vacant for some time. She stated there is mold in the house as well as an underground leak. There is a rat and mouse infestation. The citizens on her street have been suffering for years. She thanked the City for taking some initiative.

Wells stated the property is in worse shape than the pictures are showing. He requested staff put this on the demolition list.

Denise Ellis, 3 NW 59<sup>th</sup> Street, stated they have called the City and also the real estate agent. Only the bare minimum has been done. She feels it should be torn down.

#### PUBLIC HEARING CLOSED.

MOVED by Wells, SECOND by Haywood, to adopt **Res. 09-97** declaring the structure at 1 NW 59<sup>th</sup> Street as a dilapidated public nuisance. AYE: Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

23. Consider and take appropriate action for the Parks and Recreation Department to request bids from sign advertisement companies, so that advertisement sponsorships can be solicited from area and local businesses. Exhibits: Quote for sign design and City Council Policy 1-8.

Burk stated they discussed this when they were looking at the softball fields on 38<sup>th</sup> Street. They are always trying to find ways to offset costs at these fields and there was a suggestion to raise revenue with signage on the outfield fences. A corporate sponsorship could be ongoing and the company would be responsible for the maintenance and upkeep of the signs once they are purchased. The City of Lawton already has code provisions for what can be placed on the signs. He feels this is a great idea.

MOVED by Burk, SECOND by Drewry, to approve the action of Parks and Recreation Department to request bids from sign advertisement companies. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. ABSENT: Wells. MOTION CARRIED.

24. Consider approving Council Policy 1-11 creating and establishing an Economic Development Assistance Policy Industrial, for the City of Lawton and execute all necessary documentation to implement said Policy. Exhibits: Proposed Council Policy 1-11 Economic Development Assistance-Industrial.

Burk stated this committee was made up of many people from across the city who were experts in industrial development. He stated they had many revisions to the policy and they met several times. This policy sets out guidelines for those who want help with industrial projects. It establishes a policy that everyone can read and understand what they need to get some assistance.

Mitchell stated this policy sets out the criteria for those who are looking for financial assistance from the City. The initial application would be submitted to the Lawton Industrial Development Authority (LIDA). Several council members sit on this authority. They would act in an advisory role and review the initial application and then bring the request forward to the City Council.

Shoemate stated the committee had a good overall selection of business people.

Shanklin stated some of the committee members serve on several boards.

Burk stated that is a good thing and they could not ask for better committee members. He is constantly trying to find people to serve on these boards and committees.

Shanklin stated three years ago when this began, he and two other members of the committee were denied access to this committee because they had property down there. Now there is a member that has a business down there. There are three of them that are on other committees such as LURA and LEDA. Out of all the citizens, all they can find are five guys? Something is wrong.

Burk stated this committee is not LEDA and LEDA had nothing to do with it. Anything that happens will come before this council.

Jensen stated that this committee has made the recommendation that all applications will go to LIDA of which Councilmember Shanklin is a member.

Haywood stated that he likes the fact that they put it in writing that they have to make application to the state and federal government for grants and loans.

MOVED by Burk, SECOND by Drewry, to approve Council Policy 1-11 creating and establishing an Economic Development Assistance Policy Industrial, for the City of Lawton and execute all necessary documentation to implement said policy.

Wells stated he has a real problem approving a policy that talks about setting up another TIF District. This would be hard to calculate unless they are using some statistical model to come up with what it is generating. He stated a TIF allows cities, towns or counties to use tax money generated by a new development to pay for public improvements in the development area. He would not have a problem with that but we are not doing that down on 2<sup>nd</sup> Street. He has a problem setting up a general project using a TIF fund.

VOTE ON MOTION: AYE: Haywood, Shoemate, Drewry, Burk. NAY: Shanklin, Wells, Hanna. ABSTAIN: Zarle. MOTION CARRIED.

Mayor Purcell stated they need a motion to reconsider item #10.

MOVED by Zarle, SECOND by Shanklin, to reconsider item #10. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

NAY: None. MOTION CARRIED.

10. Consider approving the sale of nonessential city property to the Board of Education of Independent School District No. 8, Comanche County, Oklahoma, also known as Lawton Public Schools (Police Department) as provided by city code 10-4-406.A. Exhibits: None.

Mayor Purcell stated there is a technicality on this item.

Jensen stated this is the sale of two surplus police units to Lawton Public Schools for a nominal value as determined by the City Council.

Mayor Purcell stated the Councilmember Zarle has provided the \$2 for that nominal amount.

John Whittington, Chief of Police for Lawton Public Schools Police Department, stated he would like to express their appreciation to the City Council, Chief Smith and Deputy Chief Apple for the two police units. He stated as they have transitioned into a police department they have received complete cooperation, assistance and advice from the Lawton Police Department and they appreciate that. It is critical that they work together for a safe community.

MOVED by Zarle, SECOND by Hanna, to approve the sale of two police cars at \$1 each to the Board of Education of Independent School District No. 8. AYE: Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Mayor Purcell stated they need to discuss the concerns of Mr. Bailey. They cannot take any action but they can direct the City Manager to do something.

Burk stated they have had many discussions about this issue. They have had some issues with the developer using this road. The developer told them he would not use that road as an access road. The last thing he heard is that they were going to come up with some kind of agreement with the developer. He stated the issue is with the Scissortail subdivision on Flower Mound and NE 28<sup>th</sup> Street. The entry gate at Scissortail is too low and trucks can't make the turn without tearing up the landscaping, so they started using an emergency entrance at the backside of the subdivision.

Bryan Long, Assistant City Manager, stated there were three items they discussed with the developer. The first was reducing weight limits for the construction vehicles. Second is safety awareness of the construction vehicles. They asked the developers to stress the importance to his subcontractors. The third item was the timely repair of public infrastructure (streets). He stated the developer agrees to the issues and staff is in the process of working up an agreement to bring back to the City Council.

Drewry stated when the hospital was working on their new helicopter pad they completely tore up 35<sup>th</sup> Street and at that time the City Council passed an ordinance that any damage to a street by a construction company had to be repaired and put back in the original condition.

Long stated they are going a step further. The developer, Warren Wagner, agreed that he would repair any intermediate damage between now and the time that he completes his development and also he would come back and replace that section of street if the City deemed it necessary.

Mayor Purcell questioned why they would build the gate if the trucks can't get through. At one time there was room to go around the gate, but now they have landscaped around the gate. He stated this is going to go on for a couple of years.

Wells stated he was told that the gate was built without a permit.

Long stated that is correct.

Wells stated the gate is even too low for the refuse trucks to get through, so there is more than just the problem of going around the gate. One of the agreements he thought the developer made was to build a bypass road around the gate.

Long stated that plan has been approved and the developer is currently waiting on PSO to relocate a transformer box.

Wells stated we have something that was built without a permit and we should be telling them to tear it down.

Burk stating a fire truck could not get through the gate. He hates to go against a developer that is helping develop our city. He is pro business but it cannot be detrimental to the rest of the city. He suggested that the developer construct the bypass around the gate with the understanding that he should not use the other gate as a construction entrance once the bypass is constructed. There should be a timeline to get that bypass built.

Long stated the bypass is a go.

Burk stated they should set an exact deadline of how long the developer can use this other road as his entrance, but after that 90 days he must have that bypass built.

Wells questioned if they can make them raise it up to meet code requirements.

Burk stated the gate is beautiful.

Drewry stated all of things are beautiful, but it is creating some major problems.

Mayor Purcell stated they have two options. They can leave the gate as it is, even though it was built illegally, and force the developer to build a bypass road or they can tell the developer to reconstruct it and make it higher. They can give him ninety days to stop using the secondary road then he will have to repair the damage.

Wells stated he feels they need to make him tear down the gate and raise it up.

Burk stated he would hate to see him have to tear the gate down, but the bypass road is the answer to the problem.

Wells stated he did not get a permit and the Council should take the same action as they would against any other citizen.

Mayor Purcell stated the Council won't stand up for the ordinance.

Ihler recommended they send the developer a letter saying he has 45 days to build the bypass road and then he cannot use the other entrance after that 45 days. He stated there is room on the north side and the developer has submitted plans for the bypass road.

Jensen stated that the direction from the City Council is that his office will get with Mr. Wagoner's attorney and draft an agreement. He stated if they want to do something different they need to give that direction to the City Manager. He stated they need to let staff handle this.

Mayor Purcell stated they have already discussed the parking of trailers and he will make this a Mayor's committee with Councilmembers Burk, Wells and Drewry. He stated they will bring a recommendation back to the City Council.

Shoemate stated this will be a busy week with the International Festival and the Comanche Nation Fair going on.

Shanklin questioned if anyone was getting complaints about excessive water bills.

Burk stated he has gotten no complaints.

Shanklin stated they are just inconsistent. He stated the water revenue has to be up.

Mitchell stated they have a new program that will show the water usage by the hour. When people come in it has been very helpful to show them that program.

Wells stated they are not consistent in the time periods.

Mitchell stated they are hoping to work those issues out.

Zarle stated residents need to slow down in those areas where crews are working on the sewer lines.

Haywood welcomed Scott Meadors back and thanked him for serving his country.

Mayor Purcell stated he and Councilmember Drewry will be attending the Oklahoma Municipal League conference in Tulsa. He stated they need to do something about speeders in school zones.

Drewry stated there are areas in Texas where you cannot talk on a cell phone in school zones and she feels that is a good rule.

Mayor Purcell stated they need to talk with state legislators regarding this issue.

The Mayor and Council convened in executive session at 8:12 p.m. and reconvened in regular, open session at 9:44 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

25. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a settlement offer in the administrative actions pending in Municipal Court to suspend or revoke the retail beer licenses of the Stripes Convenience Stores identified as follows: In re: Stripes 2370, Jacob Weathers Case No. C2009-0035 et al.; In re: Stripes 2350, Carla Arrowood Case No. C2008-28540 et al.; In re: Stripes 2358, Joshua McPhail Case No. C2009-00791 et al.; In re: Stripes 2374, Reginald Norman Barnes C2009-05053 et al.; and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 25. He recommended the following action in open session:

In exchange for staying for a period of one year, the pending administrative action against these four Stripes stores, the stores have agreed as follows: 1) Stripes will offer their sales associates a beginning wage which is great than minimum wage. They will also, within five months of being on the job, they will offer their eligible employees an increase over that starting wage above minimum wage. 2) Stripes associates will receive detailed training for selling low point beer to include training on properly checking ID s and the acceptable forms of identification, how to read the identification properly, selling low point beer only during legal hours and to those only that are eligible to purchase. 3) Every Stripes cash register will be programmed such that if a low point beer product is scanned, a sales associate must enter the birth date on every transaction. The cash registers will further be programmed to calculate whether the customer is over 21 years of age or not. 4) If Stripes determines that their associate did not use due diligence in following their company policy, Stripes will terminate that employee immediately. If the employee is found to have used due diligence and made an illegal sale by accident, Stripes will put that employee on final notice status for possible termination. 5) Stripes will require all of its sales associates in the city of Lawton to be seller certified. This means that the employee has taken training offered by an independent vendor, has taken a test and has received a passing grade. Otherwise they cannot be employed by Stripes. 6) Stripes will make a donation of \$500 from each of the four stores to the Lawton Police Department s Alcohol and Drug fees account. 7) Stripes locations will display a sign which states the stores policy to check ID s on every low point beer transaction. 8) Stripes locations will place a sign outside of each store on their banner with a message that supports the Too Much Too Lose program at least 24 hours during each month. 9) The settlement agreement will incorporate the state statute and the consequences under state law for selling low point beer to minors. For the first violation under state law there is a suspension of the beer license for not more than 30 days. For a second violation there is a suspension of up to 30 days and a suspension is mandatory for 30 days, if the same employee commits both violations. For a third violation there is a suspension which is mandatory for 30 days, no more no less. If the same employee has committed all three violations, the suspension is for six months. For a fourth violation there is mandatory revocation of the license. All four of the Stripes stores have enough current violations on the books to be facing mandatory revocation. Because of that, during this one year period of a stay, for the first violation during that one year stay period, if the violation is committed by a seller certified employee, for that first violation instead of jumping to a suspension, there will be an administrative fine against the store of \$1,500. After that for any second or subsequent violation during that one year period of stay, the state scheme will be implemented. That means that for these stores that all have at least four violations on the books, they will now have two more violations during the period of stay and we will count those two violations plus what they already have on the books for the past 24 months and we will then implement that scheme. The way it stands right now, if we have a violation in the near future we are going to have mandatory revocations with these licenses. The City Attorney s office is making this recommendation for a couple of reasons. The primary reason is that we want to avoid a lengthy appeal process where our suspension or revocation of these licenses is stayed by an appeal bond during that lengthy process. The second reason is that we understand what Stripes is saying, they do hundreds or thousands of low point beer transactions every year and there is going to be a mistake. The other reason is to try and get everyone s attention that this is a serious problem. The Too Much Too Lose program is funded by grant money from the state and it has been very successful.

MOVED by Haywood, SECOND by Drewry, to approve the recommendation of the City Attorney. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: Hanna. MOTION CARRIED.

26. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the evaluation review of Larry Mitchell, City Manager, and if necessary, take appropriate action in open session. Exhibits: None.

Mayor Purcell read the title of item 26. He stated it was a consensus of a majority of the Council that Mr. Mitchell was doing an outstanding job in all areas.

\_\_\_\_\_/s/ John P. Purcell, Jr.  
JOHN P. PURCELL, JR., MAYOR  
ATTEST:

\_\_\_\_\_/s/ John P. Purcell, Jr.  
JOHN P. PURCELL, JR., MAYOR  
ATTEST:

/s/ Traci L. Hushbeck  
TRACI HUSHBECK, CITY CLERK